

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS  
LIABILITY LITIGATION

MDL No. 2419  
Dkt. No. 1:13-md-2419 (FDS)

THIS DOCUMENT RELATES TO:

All Actions

**PLAINTIFFS' STEERING COMMITTEE'S MOTION TO BRIEFLY  
EXTEND DEADLINES SET FORTH IN THE ORDER ON MEDIATION PROGRAM**

The Plaintiffs' Steering Committee ("PSC"), hereby files this Motion to Briefly Extend Deadlines Set Forth in the Order on Mediation Program, Dkt. No. 394 (the "Mediation Order"). The PSC seeks to extend and discuss the following deadlines with the Court at the hearing tomorrow (October 8, 2013):

1. The September 23, 2013 Opt-In Date set forth in the Mediation Order, ¶ D;
2. The October 7, 2013 Date for Joint Proposals for an Agreed-upon Mediator and for a Fee-Sharing Structure set forth in the Mediation Order, ¶ E;
3. The October 14, 2013 Proposal Submission Date for any party if the parties to the mediation have not agreed as to a mediator by October 7, 2013 set forth in the Mediation Order ¶ E; and
4. The October 21, 2013 deadline to meet and confer regarding any procedures that may be necessary and appropriate to govern disputes that may arise in the mediation set forth in Mediation Order ¶ F.

Despite the PSC, Creditor's Committee, Trustee and Mediation Participants best efforts to jointly select a mediator and establish a fee-sharing Structure pursuant to the Mediation Order, the parties are still working on proposing one or more potential mediators. ARL, Victory and the three clinics that have chosen to opt-into the Mediation Program have proposed potential mediators and the PSC, Creditor's Committee and Trustee are considering the recommendations. The PSC, Creditor's Committee and Trustee have made progress interviewing proposed mediators and gathering information regarding their experience and fees. The challenge in meeting the Court's deadline to propose a mediator is that the various Mediation Participants

have proposed different mediators. Of the “National Defendants,” ARL and Victory, and the clinic participants and potential participants, have all expressed interest in local mediators. The PSC, Creditor’s Committee and Trustee continue to confer with all Mediation Participants and potential participants regarding mediator selection(s).

A very brief extension will allow the parties to further confer with the Trustee, the Creditors’ Committee, Mediation Participants and other potential participants to the Mediation Program to agree upon a mediator(s) and fee-sharing structure proposal to be submitted to this Court. It also will allow the parties to continue discussions with potential participants who have not yet opted into the Mediation Program, allowing them to opt in at a later date. The PSC intend to propose *very brief* extensions of the deadlines after conferring further with the Creditor’s Committee, Trustee and Mediation Participants.

Dated: October 7, 2013

**Respectfully submitted,**

/s/ **Kimberly A. Dougherty**

Thomas M. Sobol  
Kristen Johnson Parker  
HAGENS BERMAN SOBOL SHAPIRO LLP  
55 Cambridge Parkway, Suite 301  
Cambridge, MA 02142  
Phone: (617) 482-3700  
Fax: (617) 482-3003  
tom@hbsslaw.com  
kristenjp@hbsslaw.com

*Plaintiffs’ Lead Counsel*

Elizabeth J. Cabraser  
Mark P. Chalos  
LIEFF CABRASER HEIMANN & BERNSTEIN,  
LLP  
275 Battery Street, 29th Floor  
San Francisco, CA 94111  
Phone: (415) 956-1000  
Fax: (415) 956-1008  
ecabraser@lchb.com  
mchalos@lchb.com

*Federal/State Liaison*

Marc E. Lipton  
LIPTON LAW  
18930 W. 10 Mile Road  
Southfield, MI 48075  
Phone: (248) 557-1688  
Fax: (248) 557-6344  
marc@liptonlawcenter.com

Kim Dougherty  
JANET, JENNER & SUGGS, LLC  
75 Arlington St.  
Suite 500  
Boston, MA 02116  
Phone: (617) 933-1265  
kdougherty@myadvocates.com

Patrick T. Fennell  
CRANDALL & KATT  
366 Elm Avenue, S.W.  
Roanoke, Virginia 24016  
Phone: (540) 342-2000  
pfennell@crandalllaw.com

J. Gerard Stranch, IV  
Benjamin A. Gastel  
BRANSETTER, STRANCH & JENNINGS PLLC  
227 Second Avenue North  
Nashville, TN 37201  
Phone: (615) 254-8801  
Fax: (615) 255-5419  
gerards@branstetterlaw.com

Mark Zamora  
ZAMORA FIRM  
6 Concourse Parkway, 22nd Floor  
Atlanta, GA 30328  
Phone: (404) 451-7781  
Fax: (404) 506-9223  
mark@markzamora.com

*Plaintiffs' Steering Committee*

**CERTIFICATE OF SERVICE**

I, Kristen Johnson Parker, hereby certify that I caused a copy of the above PSC's Motion to Briefly Extend Deadlines Set Forth in the Order on Mediation Program to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: October 7, 2013

/s/ Kimberly A. Dougherty  
Kimberly A. Dougherty, BBO # 658014